

REMARKS

Applicant has amended claims 15, 29, and 32. Claims 9 and 10 have been canceled. These changes have been made to place the application in better form for examination and to further obviate the 35 U.S.C. §112 rejections set forth in the Office Action dated March 24, 2005. It is believed that none of these amendments constitute new matter. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claims 1, 7, 26-27, and 32 for failing to recite the complete ATCC accession information. Applicant avers herein that the blanks in claims 1, 7, 26-27, and 32 will be replaced with the ATCC Accession number upon allowance of any claims of the present invention.

The Examiner has rejected claims 1-33 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Applicant avers herein that the blanks in claims 1, 7, 26-27, and 32 will be replaced with the ATCC Accession number upon allowance of any claims of the present invention. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-33 under 35 U.S.C §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As stated in the specification on page 32, the seed deposit is being maintained by AgReliant Genetics, LLC. The deposit will be available to the Commissioner during the pendency of this application and, upon allowance of any claims, a deposit of the corn seed will be made with the American Type Culture Collection.

The undersigned avers that:

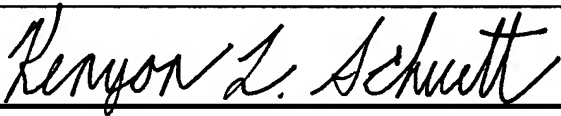
- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;

- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit will be performed; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 12 and 13 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Upon reviewing the Examiner's rejection of claims 12 and 13, Applicant noted that the Examiner appeared to refer to claims 9 and 10. Applicant spoke with Examiner on April 18, 2005 regarding this error, and Examiner indicated that she intended to refer to claims 9 and 10 instead of claims 12 and 13. Applicant has canceled claims 9 and 10. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §112. Reconsideration of this application and early notice of allowance is requested.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
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